

Economic Development Revolving Loan Guidelines

Sections I through XIV of this document govern the use of Federal economic development revolving loan funds. Section XV of this document applies to the use of State economic development revolving loan funds.

I. Purpose.

The purpose of these guidelines is to establish policies and procedures to regulate, coordinate, and facilitate the workflow for underwriting new financing requests, servicing revolving loans, and ensuring borrower compliance with loan terms and conditions.

II. Authorization and Funding Sources.

Chapter 469 of the Minnesota State Statutes, as amended, authorizes the City of Mankato to make loans to prospective private businesses. The revolving loan fund was capitalized through funds made available by the City of Mankato and the Minnesota Department of Trade and Economic Development.

In addition to these guidelines, loan funds are subject to the rules and regulations established by the U.S. Department of Housing and Urban Development (HUD) for the State of Minnesota's Community Development Block Grant (CDBG) program.

III. Mission.

The mission of the revolving loan fund is to increase the City's tax base, create and retain permanent private sector jobs and improve economic opportunity and living standards for the citizens of Mankato by promoting local business development and expansion, by attracting out-of-state business expansion, leveraging private sector funds, and assisting the development of new technologies.

IV. Program Objective.

The objective of the revolving loan fund is to fill the financing gap between project costs and private debt financing and private equity by making direct low-interest loans for certain approved activities to businesses within the Mankato city limits.

V. Equal Opportunity and Affirmative Action.

A. Non-discrimination. No one shall be denied assistance based upon race, color, creed, religion, national origin, sex, marital status, age, familial, status, or disability.

B. All loan recipients, developers, contractors, and subcontractors must agree:

1. Not to discriminate in any manner against an employee or applicants because of race, color, creed, religion, sex, marital status, age, familial, status, or disability.
2. To post and to cause subcontractors to post in conspicuous places available to employee and applicants for employment, notices setting forth the substance of this clause.

VI. Eligible Activities

Certain projects, applicants, activities and costs are eligible for revolving loan funds.

A. Eligible applicants. Applicants may be a small business or developers who are organized as proprietorships, partnerships, or a corporation whose business sales are less than \$5.0 million annually for each of the last two years. The City of Mankato may make exceptions to this rule on a case by case basis. Moreover, the successful applicant must also demonstrate proof of the following:

1. Ownership or lease agreements of the subject property;
 2. Property insurance;
 3. Property taxes paid and current;
 4. Freedom from all judgments, liens, agreements, consent decrees, stipulations for settlements, or other such acts which would prevent the applicant from participating in any program administered by the City of Mankato; and
 5. Compliance with all applicable City of Mankato ordinances and plans.
- B. Eligible activities. Loan funds may be used to assist small businesses primarily by providing financial assistance for the following types of activities, including but not limited to: growth and expansion, rehabilitation, code compliance, employee recruitment and retention through housing initiatives, and façade enhancement.
- C. Eligible costs. Eligible costs may include the following:
1. Land improvements. Improvements to the land which are a portion of the project cost including but not limited to: grading, new streets or street improvements, parking lots, utilities, and landscaping.
 2. Purchase or renovation of building. Purchase and, if necessary, renovation of an existing industrial or commercial facility is permitted.
 3. Purchase machinery or equipment. Purchase of major items of machinery and equipment independent of land and buildings. These items must be defined to have a useful life of at least 5 years.
 4. Building construction. Construction of a new building and/or a major addition to an existing building.
 5. Leasehold improvements. Revolving loan funds may be used for certain leasehold improvements provided the lease is equal to or greater than the term of the loan and the City secures a lien on the land or building, and improvements.

6. Affordable housing. Because affordable housing development is tied to business needs, revolving loan funds may be used to:
 - a. Leverage other public and private funds and shall not be used a primary funding source; and
 - b. Purchase residential property for development and redevelopment of affordable housing.
7. Micro-enterprise. Micro-enterprise activities are eligible for revolving loan funds.
 - a. Definition. A micro-enterprise is defined as a commercial enterprise that has five (5) or fewer employees, one or more of whom owns the enterprise.
 - b. Exemption. Micro-enterprise loan applicants may be exempt from certain requirements of these guidelines on a case-by-case basis.
8. Infrastructure Improvements. In order to promote job creation/retention for low and moderate income persons and/or to prevent or eliminate slum and blight the City may apply proceeds from the revolving loan fund to develop public infrastructure. Such infrastructure may include utilities, streets, walkways and/or parking facilities. The use of funds for these purposes must be appropriately documented as meeting economic development and redevelopment objectives.

VII. Ineligible Activities. Certain applicants, projects, activities, and cost are ineligible for revolving loan funds.

- A. Ineligible applicants. Any applicants not meeting the eligibility requirements outlined in Section VI, subsection A shall be ineligible to receive revolving loan funds.

- B. Ineligible activities. Funds may not be used for retail businesses, non-profit institutions, gambling organizations, lending or investment organizations, land speculation, or any deemed illegal by federal, state, or local law or ordinance.
- C. Ineligible costs. Ineligible costs includes but is not limited to: management fees, financing costs, franchise fees, debt repayment or consolidation, moving costs, refinancing, and operating costs or working capital.

VIII. Loan Terms and Conditions.

The City shall make available to eligible applicants direct low-interest loans for the purpose of encouraging economic development, downtown development, job creation and job retention, housing development to meet business needs, and preservation of business districts in the City of Mankato.

- A. Loan amount. There are maximum and minimum loan amounts for eligible projects.
 - 1. Maximum loan amount. The maximum loan available from the revolving loan fund for each eligible project is limited to \$300,000.00 or 40% of total project cost, whichever is less.
 - 2. Minimum loan amount. The minimum loan amount available from the revolving loan fund for each eligible project is \$10,000.00.
 - 3. Micro-enterprise loan. The maximum amount of a micro-enterprise loan shall be \$5,000.00 and the minimum loan amount shall be \$2,000.00.
 - 4. Infrastructure Grant. The City Council shall determine the extent to which fund proceeds may be expended for public infrastructure.

- B. Interest rate. The interest rate shall be a fixed-rate established at 70% of the Prime rate at the date of application but shall not be less than 3.0%.
- C. Term. The term of the loan will be tied to the useful life of the assets being financed. The following general terms apply:
1. Machinery/equipment. The term of the loan for machinery/equipment shall not exceed 7 years.
 2. Land/building acquisition. The term of the loan for land/building shall not exceed 15 years.
 3. New construction/renovation. The term of the loan for new construction/renovation shall not exceed 15 years.
 5. Balance due. All balances will be due and payable if and when the loan recipient sells or otherwise transfers any or part or his/her interest in the property or fails to meet any of the guidelines established within this document before the maturity date of the loan or relocates any part or all of the business outside the City of Mankato.
- D. Job creation. A minimum of 51% of all jobs created or retained must be held by individuals determined to be of low-or-moderate income in accordance with the rules and regulations established by the U.S. Department of Housing and Urban Development (HUD) for the Community Development Block Grant (CDBG) program.
1. One permanent full-time job must be created or saved within two years of the loan closing for up to each \$50,000.00 borrowed from the revolving loan fund;
 2. Businesses receiving revolving loan funds must pay each employee total compensation, including benefits not mandated by law, that on an annualized basis is equal to at least 110% of the federal poverty level for a family of four; and

3. A business that receives revolving loan funds must agree to list any vacant or new position with the job services of the Department of Economic Security.
- E. Slum and Blight. Funds may be expended for economic development activities, such as commercial rehab, which aid in the elimination of slum or blight in an area designated by the EDA. Designated areas must meet the definition of slum or blight under state or local law.
 - F. Housing assistance. The recipient shall set aside 5% of revolving loan funds or otherwise contribute an equal amount from other sources to an employer assisted housing program of choice which promotes the development of affordable housing for low and moderate income workers in the community generally.
 - G. Equity participation. There shall be a minimum 10% equity investment of total project costs required of all applicants.
 - H. Collateral requirements. All loan agreements will be secured by one or more of the following: promissory note, mortgage, or security agreement as required by the City; and
 1. The revolving fund may take a subordinate position to the primary lender on the assets financed; and
 2. Surety deposits shall be required for certain construction contracts as set forth in Minnesota Statutes 290.9705.
 - I. Letters of Commitment. Letters of commitment from all funding sources must be submitted for the application to be deemed complete.
 - J. Personal guaranty. Personal guarantees of persons with ownership interest of 20% or greater are required. Personal guarantees of persons with ownership interest between 5% to 19% may be required by the EDA but are discretionary.

- K. Loan repayments. Repayment of the loan must begin within one month of completion of construction or taking possession of machinery and equipment purchased with loan funds. The City of Mankato may make exceptions to this rule on a case by case basis.
- L. Loan prepayment. Prepayments are permitted where the Borrower makes the EDA whole for any losses or costs associated with the prepayment.
- M. Notice of award or denial. Applicants will be notified in writing not more than fourteen (14) days after final action has been taken on their revolving loan fund application by the EDA.
- N. Loan closing documents. The City will close the loan within sixty (60) days of final EDA approval of the loan application. At that time, the City will deliver to the Borrower all closing documents and a final debt service schedule. In exchange, the Borrower will deliver to the City its loan obligation which is defined as a bond, note, or other evidence of obligation issued by the Borrower to evidence its indebtedness under the loan agreement.
- O. Post closing amendments and modifications. Requests for amendments and modifications following award, closing or disbursement of funds to the underwriting of the original request require EDA approval and shall be presented at the next scheduled meeting of the Board.
- P. Loan declination. The EDA will not make a loan if it determines that the loan amount would place an undue burden on the financial resources of the Borrower or the Borrower cannot demonstrate adequate financial capacity to repay the loan or the EDA otherwise determines that making the loan is not in the best interest of the City.
- Q. Appeal. There will be a complaint and appeal procedure for aggrieved applicants:

1. Written notice. Applicants will receive written notice of the denial of the loan and the reason(s) for the determination within fourteen (14) days of the determination.
2. Petition. The aggrieved applicant may petition the EDA in writing for reconsideration within fourteen (14) days from the date of the written notice of denial. Any request to appear before the Board must be in writing and must be submitted at least seven (7) days prior to the Board's scheduled meeting. Upon receipt of the written petition for reconsideration, the EDA shall consider the petition at its next scheduled meeting and advise the petitioner in writing of its decision within fourteen (14) days of that meeting. The Board's decision will be final.
3. Re-application. Applicants aggrieved by the Board's final decision may re-apply for revolving loan funds after ninety (90) days if the concerns in the preceding application are adequately and appropriately addressed.

IX. Administration.

- A. Loan review committee. The Mankato EDA will serve as the loan review committee. The final determination on all revolving loan applications rests with the EDA.
- B. Conflict of Interest. All city officials and employees shall comply with the applicable conflict of interest regulations set forth in Section 2.5 of the City Code.
- C. Staff responsibility. Community development staff shall have the general responsibility for coordinating the application process, reviewing loan application, preparing applications and recommendations for review by the EDA, and coordinating the loan approval and service process as set forth in Subsections D – G of this section.

- D. Pre-application process. All parties seeking revolving loan funds must file a pre-application. Pre-application forms may be obtained from the Community Development Department.
1. There will be a pre-application form that must be completed and submitted to the Community Development Department for review and approval.
 2. The pre-application form will request information regarding the applicant, project scope, and project costs.
 3. Upon Community Development Department approval, the applicant will be forwarded a revolving loan fund application.
 4. Pre-application forms may be submitted on an open basis throughout the year.
- E. Application process. All parties seeking revolving loan funds must file an application. Application forms may be obtained from the Community Development Department.
1. Components of application. Only completed applications will be reviewed for consideration by community development staff. A completed application is one that satisfies the checklist provided below:
 - a. Business plan describing the scope of the project, including site plans, building plans, renderings, or blueprints;
 - b. Project budget;
 - c. Private financing commitment;
 - d. Equity investment commitment;
 - e. Proposed security;
 - f. Company financial statements (3 years);
 - g. Personal financial statements (2 years);
 - h. Credit check release;
 - i. Mortgage or lease of property to be improved;
 - j. Proof of insurance of property to be improved;
 - k. Number of jobs to be created or retained;

- l. Wage information;
 - m. Amount of loan request; and
 - n. Other documentation as requested.
2. Incomplete applications. Community development staff, in its sole discretion, will determine if the application is complete and actionable. Incomplete applications will be assigned *pending* status and the applicant will be informed in writing of the missing documentation.
 3. Transmittal. Applications transmitted by oral, telegraphic, facsimile, or e-mail will not be accepted.
 4. Determination of eligibility. Applicant eligibility will be determined by community development staff using criteria enumerated in subsection D (1) of this section.
 5. Site inspection. As part of the eligibility determination process, the city will inspect the property or building designated for improvements for compliance with the city administrative ordinances and zoning codes.
 6. Credit check. A credit check for the company and each of its principal owners shall be conducted by community development staff.
- F. Loan approval process. Community development staff will prepare loan applications and make recommendations to the EDA.
1. EDA agenda. Upon determining the eligibility of the completed application and reviewing for credit worthiness and soundness of plan, community development staff will place the loan application on the agenda for the EDA's next scheduled meeting.
 2. Criteria. The EDA will base their decision on the economic benefit to the City of Mankato, credit underwriting typical to the lending community including the borrower's ability to repay the loan and the collateral offered to secure the loan,

the number of jobs to be created or retained, wage rates of jobs created or retained, and increase in the local tax base.

3. EDA action. Upon placement on the agenda, the EDA shall approve, deny, or table for consideration at a future meeting the loan application request.
 4. Notification of EDA action. The applicant shall be notified in writing within fourteen (14) days of the EDA's decision in accordance with the requirements set forth in Section VIII, Subsection M of these guidelines.
 5. Approval. If approved, the applicant will be sent a written commitment letter that will outline the terms and conditions of the loan approval. A copy of the commitment letter will be signed by the Borrowers and Guarantors signifying acceptance of the terms and conditions of the loan proposal and the conditions for funding. Upon the return of the executed commitment letter, community development staff will begin the loan closing process with the City Attorney.
 6. Closing. The City Attorney will prepare documentation and coordinate the closing with the Borrower or the Borrower's counsel.
- G. Loan servicing. Community development staff will coordinate loan servicing activities.
1. Monitoring. Community development staff will monitor loans for compliance with the accepted terms and conditions including job creation statistics and wage and benefit levels.
 2. Reports. Community development staff and finance staff are responsible for ensuring that all required reports are filed in a timely manner.
 3. Records. Computer files and conventional paper files will be maintained for the purpose of documenting, tracking, and monitoring program and project activities. Program records will be maintained primarily by the Community

Development Division and financial records will be maintained primarily by the Finance Division. Where applicable, the following records will be maintained:

a. Program records. The following program information will be maintained in the program project file, including but not limited to:

- i. Environmental report;
- ii. Eligibility determination records as set forth in Section IX, Subsection E (1) (a-n);
- iii. Property inspection report;
- iv. Progress reports;
- v. EDA Resolutions;
- vi. Correspondence;
- vii. Loan documents; and
- viii. Executed loan agreement.

b. Financial records. The following financial information will be maintained in the financial project file, including but not limited to:

- i. Copy of the executed loan agreement;
- ii. Disbursement data;
- iii. Progress reports;
- iv. Repayment data; and
- v. Amortization tables.

4. Record retention. All program and financial records, supporting documents, statistical records, environmental review records and other records pertinent to the revolving loan program shall be maintained for a period of at least three (3) years from the final project report and project closeout date.

X. Delinquency. There shall be a notification procedure for delinquent loans.

A. The finance officer is responsible for the timely posting and accounting of all loan repayments.

- B. Thirty day notice. Upon thirty (30) days delinquency, the finance officer will notify the Community Development Coordinator (CDC) of the delinquency and the CDC shall send the borrower a delinquency notice requesting payment within fifteen (15) days. A copy of the letter shall be forwarded to the Deputy City Manager (DCM).
 - C. Forty-five day notice. If payment has not been received by the 45th day a second delinquency notice will be sent to the Borrower by the CDC requesting payment within fifteen (15) days. A copy of the letter shall be forwarded to the DCM.
 - D. Sixty day notice. If payment has not been received by the 60th day, the DCM will attempt to contact the Borrower by telephone to discuss the delinquency. The DCM shall also send a notice of default to the borrower via certified mail requesting immediate payment and advising the borrower the delinquency will be placed on the EDA agenda for discussion at the next scheduled meeting.
 - E. Ninety day notice. If no repayment plan is submitted by the Borrower, or if there is no attempt by the Borrower to negotiate the amount due, the DCM will contact the City Manager and The City Attorney to discuss sending a 90 day letter calling due the loan in full.
 - F. Negotiation. Throughout this process, every attempt will be made to preserve the company, the jobs, and the loan funds.
- XI. Default. If the EDA determines a loan to be in default it will pass a resolution declaring the entity in default and convey the matter to the City Attorney for disposition.
- XII. Funding acknowledgement. For projects financially supported by revolving loan funds the Borrower shall:

- A. Acknowledge revolving loan fund support in certain written materials including company brochures, reports, newsletters, and press releases; and
- B. On the building or expansion construction site post a sign acknowledging financial support from the State of Minnesota and the City of Mankato.

XIV. Other Federal and State Requirements.

Revolving loan fund recipients must also comply with all applicable federal and state laws, executive orders and regulations governing:

- A. Fair Housing and Equal Access, including:
 - 1. Title IV of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.) (24 CFR Part 1);
 - 2. The Fair Housing Act (42 U.S.C. 3601-3620) (24 CFR Part 100-115);
 - 3. Equal Opportunity in Housing (Executive Order 11063, as amended by Executive Order 12259) (24 CFR Part 107);
 - 4. Age Discrimination Act of 1975, as amended (42 U.S.C. 6101) (24 CFR Part 146);
 - 5. Section 109 of Title I of the Housing and Community Development Act of 1974;
 - 6. Americans with Disabilities Act;
 - 7. Section 504 of the Rehabilitation Act of 1973; and
 - 8. Architectural Barriers Act of 1968.
- B. Equal Opportunity, including
 - 1. Equal Employment Opportunity, Executive Order 11246, as amended (41 CFR Part 60);
 - 2. Section 3 of the Housing and Urban Development Act of 1968;
 - 3. Minority/Women's Business Enterprise (Executive Orders 11625, 12432, 12138) (24 CFR 85.36(e))
- C. Labor Requirements, including:
 - 1. Davis-Bacon and Related Acts (40 CFR U.S.C. 276 (A)-7);

2. Contract Work Hours and Safety Standards Act, as amended (40 CFR U.S.C. 327-333);
 3. Copeland Anti-Kickback Act (40 U.S.C. 276c); and
 4. Fair Housing Standards Act of 1938, as amended (29 U.S.C. 201, et seq.)
- D. Procurement Requirements, including the standards of 24 CFR 85.36.
- E. Conflict of Interest. For the procurement of services and property, the following conflict-of-interest provisions apply:
1. 24 CFR 85.36;
 2. 24 CFR 84.42; and
 3. Section 2.5 of the Mankato City Charter.
- F. Environmental Review. The City will be responsible for undertaking environmental reviews in accordance with the Minnesota Department of Trade and Economic Development Environmental Manual. The environmental review must be complete before funds are committed.
- G. Flood Insurance. Section 202 of the Flood Disaster Protection Act of 1973 (42 U.S.C 4106) apply.
- H. Displacement, Acquisition and Relocation. Section 570.606 and 24CFR part 42 apply.
- XV. Guidelines for the regulation of State Economic Development Revolving Loan Funds.
- A. General. The following rules, regulations, policies, and procedures govern state economic development revolving loan funds.
- B. Incorporation by Reference. The dissemination, use, and regulation of state economic development revolving loan funds shall be generally governed by guidelines including:

1. Mankato Economic Development Authority guidelines governing the use of federal economic development revolving loan funds Sections I through XIII of this document; and
 2. The Minnesota Investment Fund (MS.116J.8731).
- C. Exceptions. The state economic development revolving loan guidelines shall be exempt from the following requirements set forth in the federal guidelines referenced in Section B (1) above:
1. Section VIII, E; Slum or Blight; and
 2. Section XIV, A through H.